

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

EDDIE GARCIA,

Petitioner,

v.

PEOPLE OF THE STATE OF  
CALIFORNIA,

Respondent.

CV F 98-6053 AWI SMS HC

ORDER DENYING PETITIONER'S MOTION  
FOR RECONSIDERATION OF COLLECTION  
OF FILING FEE

[Doc. 11]

Petitioner filed a petition for writ of habeas corpus on September 16, 1998. By order of January 27, 1999, the Court directed Petitioner to submit a complete in forma pauperis application or pay the \$5.00 dollar filing fee. On this same date, the Court also issued an order directing Petitioner to submit his petition on the proper §2254 form. Petitioner failed to do either. Therefore, on March 24, 1999, the Court issued a Report and Recommendation that the petition be dismissed for failure to exhaust the state court remedies and for failing to comply with the Court's orders. The recommendation was adopted in full on August 31, 1999, and case was dismissed. Judgment was entered this same date.

Almost six years later, Petitioner has now filed a [motion for reconsideration](#) of collection of the filing fee to reinstate his case. Petitioner contends that he was sent the Court's order directing payment of the fee, however, he was not noticed of the thirty day time limit.

Petitioner's contentions lack merit. The Court's order of January 27, 1999, specifically directed that the in forma pauperis application or filing fee was due within thirty days from the

1 date of service. Further, Petitioner's current request is wholly untimely as it was filed nearly six  
2 years after the issuance of the Court's order. Moreover, the instant action was dismissed, without  
3 prejudice, thus, nothing prevents Petitioner from refiling a petition for writ of habeas corpus.<sup>1</sup>

4 Based on the foregoing, it is HEREBY ORDERED that Petitioner's request for  
5 reconsideration of the collection of the filing fee, is DENIED.

6  
7 IT IS SO ORDERED.

8 **Dated: July 15, 2005**  
9 0m8i78

/s/ Anthony W. Ishii  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> By this statement the Court expresses no opinion as the timeliness of such a petition.